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No. 82-712

In the Supreme Court of the United States

October Term, 1982

IOWA BEEF PROCESSORS, INC.,
a Corporation,
Petitioner,

vs.

UNITED FOOD AND COMMERCIAL WORKERS,
LOCAL NO. 222, AFL-CIO,
Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

RESPONDENT'S BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

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STATEMENT OF THE CASE

Respondent, United Food and Commercial Workers, Local No. 222, AFL-CIO (Union) generally accepts the Statement of the Case presented in the Petition of Petitioner, Iowa Beef Processors, Inc. (Company). The Union, however, notes the following in regard to the award of the arbitrator. The arbitrator found the Union's interpretation of the guarantee provisions of the contract supported on two grounds. He concluded first the language of the disputed contract provisions supported the Union's

position on the grievance (Pet. App. C-7-C-9). He specifically found: "the meaning of Section 1 of Article VIII may be clear from a literal interpretation of its language, that meaning strongly supports the Union's position rather than the Company's." (Pet. App. C-7.) He further noted: "it is the Company rather than the Union which is seeking to avoid the plain meaning of Section 1." (Pet. App. C-9.) And, he finally held the question of the propriety of the introduction of parol evidence moot because "the Union's interpretation of the exception in the second sentence would be controlling on the basis of the conventional meaning of the words used." (Pet. App. C-9.)

Only after making the findings in regard to the language of the contract did the arbitrator set out his second, or alternative, basis for concluding the Union's reading of the contract proper (Pet. App. C-9-C-13). In that regard, the arbitrator concluded: "it *appears* that what was really involved here was a mutual misunderstanding between the parties." (Pet. App. C-9-C-10) (emphasis supplied.) That misunderstanding concerned differing subjective intentions of the parties in regard to the meaning of the words used in the disputed contract language (Pet. App. C-10). The arbitrator, then, resolved the misunderstanding under common law rules of contract construction (Pet. App. C-10-C-13).

In seeking in the Courts to vacate the arbitrator's award, the Company challenged the second or alternative ground for the award (Pet. App. A-4, B-7). The Company urged the alternative holding rendered the award in excess of the arbitrator's authority (Pet. App. A-4, B-7). Both reviewing Courts found the arbitrator's first ground for sustaining the Union's interpretation of the contract sufficient to order enforcement of his award (Pet. App. A-5, B-6).

SUMMARY OF ARGUMENT

No bases exist for this Court to grant the Company's Petition for Writ of Certiorari for three reasons. First, these proceedings present no novel or substantial issue requiring resolution by this Court. Second, this Court's directions in *Steelworkers v. Enterprise Wheel & Car Corp.*, 363 U.S. 593 (1960) provide clear and adequate guidance to the lower Courts in ruling on the issue raised in this case. Third, the Company can show no need for the review of the current law it seeks.

ARGUMENT

This Court Should Deny the Company's Petition for Writ of Certiorari Because the Proceedings in This Case Present No Issue of Substantial Importance Warranting Re-Examination of Current Controlling Precedent Regarding the Courts' Enforcement of Labor Arbitration Awards.

The Union submits any issue or confusion in this case stems from the arbitrator's opinion in which he found the Union's interpretation of the contract correct on two alternative grounds. The first ground rested on a literal reading of the contract language. The second ground involved a construction of the disputed contract provisions by the arbitrator under common law rules of contract interpretation. The Company consistently has contended the arbitrator's second ground for his decision exceeded his contractual authority and prevented him from resting his ruling on the literal language of the contract.

The Union submits this Court clearly determined the issue raised by the Company in this case in its decision

in *Steelworkers v. Enterprise Wheel & Car Corp.*, 363 U.S. 593 (1960). In the *Enterprise Wheel & Car Corp.* decision, this Court found:

> The opinion of the arbitrator in this case, as it bears upon the award of back pay beyond the date of the agreement's expiration and reinstatement is ambiguous. It may be read as based solely upon the arbitrator's view of the requirements of enacted legislation, which would mean that he exceeded the scope of the submission. Or it may be read as embodying a construction of the agreement itself, perhaps with the arbitrator looking to 'the law' for help in determining the sense of the agreement. A mere ambiguity in the opinion accompanying an award, which permits the inference that the arbitrator may have exceeded his authority, is not a reason for refusing to enforce the award. Arbitrators have no obligation to the court to give their reasons for an award. To require opinions free of ambiguity may lead arbitrators to play it safe by writing no supporting opinions. This would be undesirable for a well reasoned opinion tends to engender confidence in the integrity of the process and aids in clarifying the underlying agreement. Moreover, we see no reason to assume that this arbitrator has abused the trust the parties confided in him and has not stayed within the areas marked out for his consideration. It is not apparent that he went beyond the submission. The Court of Appeal's opinion refusing to enforce the reinstatement and partial back pay portions of the award was not based upon any finding that the arbitrator did not premise his award on his construction of the contract. It merely disagreed with the arbitrator's construction of it. 363 U.S. 593, 597-98 (1960).

The decision established the rule that the Courts must enforce a labor arbitration award, even if it contains ambiguities and even if those ambiguities may support a conclusion the arbitrator exceeded his or her authority. *Id.* The Union urges the lower Courts in these proceedings did nothing more than follow this Court's clear directives in the *Enterprise Wheel & Car Corp.* ruling.

Both the District Court and the Eighth Circuit Court of Appeals ordered enforcement of the arbitrator's award. The District Court found the arbitrator's holding in regard to the literal meaning of the disputed contract language adequate to support enforcement of the award. In passing upon the arbitrator's alternative holding, the District Court specifically applied this Court's holding in *Enterprise Wheel & Car Corp.* The District Court stated:

> The Court has carefully considered all of the allegations of the Iowa Beef Processors Company against the arbitration and finds that they are not sufficient to overturn the arbitration award even though it can well be argued that they have credence. The reason for this conclusion is the test which this Court must apply to the arbitration award.
>
> In the recent Eighth Circuit slip Opinion, *Ford Parcel Service, Inc. v. Miscellaneous Drivers and Helpers Union No. 610*, No. 80-1960 (8th Cir. 8/25/81), the Circuit Court stated on page 5 of said slip opinion as follows:
>
> > Judicial review of his award is limited to the question of whether it "draws its essence from the collective bargaining agreement." *United Steelworkers v. Enterprise Wheel & Car Corp.*, 363 U.S. 593, 597 (1960); *Kewanee Machinery Division v. Local Union No. 21, International*

Brotherhood of Teamsters, 593 F. 2d 314, 317-18 (8th Cir. 1979); *General Drivers Local No. 120 v. Sears, Roebuck & Co.*, 535 F. 2d 1072, 1075 (8th Cir. 1976); *Western Iowa Pork Co. v. National Brotherhood Packinghouse & Dairy Workers, Local No. 52*, 366 F. 2d 275, 277-78 (8th Cir. 1966).

In the *Steelworkers* case, supra, the Court in holding on page 593 states as follows:

> The opinion of the arbitrator in this case, . . . is ambiguous; but mere ambiguity in the opinion accompanying an award is not a reason for refusing to enforce the award, even when it permits the inference that the arbitrator may have exceeded his authority.

Further, in the same opinion at page 598, the Court states as follows:

> Moreover, we see no reason to assume that this arbitrator has abused the trust the parties confided in him and has not stayed within the areas marked out for his consideration. It is not apparent that he went beyond the submission.

Neither is it apparent to this Court that the arbitrator here went beyond submission. (Pet. App. B-5-B-6.)

On appeal, the Court of Appeals concluded:

> As an interpretation of the literal language of the disputed provision, the arbitrator's decision obviously draws its essence from the collective bargaining agreement. In these circumstances, we need not reach IBP's arguments over the propriety of the arbitrator's alternative holding. Accordingly, we affirm. (Pet. App. A-5.)

In short, the Union submits both the lower Courts recognized the Company's challenge to the arbitrator's award as being grounded in its possible ambiguity. Both Courts acknowledged the possible impropriety of the arbitrator's alternative holding as exceeding his contractual authority. At the same time, both Courts heeded this Court's directions to enforce the award despite any ambiguity in the award created by the arbitrator's opinion.

The Union further urges the decisions of the lower Courts in this case do not conflict with rulings by other Courts of Appeals.[1] For example, the Third Circuit found no difficulty in following the dictates of the *Enterprise Wheel & Car Corp.* decision in *NF & M Corp. v. Steelworkers, Local 8148*, 524 F. 2d 756 (3d Cir. 1975). There, the Court found:

> In this instance, the arbitrator did not make an explicit finding that compliance with the grievance procedure was excused. Rather, his opinion states that the time bar can be reasonably construed to be inapplicable, and his award simply holds that the grievance was timely.
>
> An arbitrator is not required to list his reasons for the awards, nor should an ambiguity in his opinion be seized upon to support an inference that he exceeded his authority. *Enterprise, supra*, 524 F. 2d 756, 759 (3d Cir. 1975).

The Court, then, affirmed the District Court's order enforcing the arbitrator's award.

Similarly, the Fifth Circuit enforced an arbitration award per curiam in *Mineworkers, Dist. 50 v. Bowman*

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1. *See also Kewanee Mach. Div. v. Teamsters, Local 21*, 593 F. 2d 314, 318 n. 6 (8th Cir. 1979).

Transp. Inc., 421 F. 2d 934 (5th Cir. 1970). The District Court had found:

> A second reason for upholding the award is found in a possible ambiguity in the arbitrator's findings . . . In view of this possible ambiguity on the issue of grievant's negligence, this court must heed the warning given in *Enterprise* . . . 421 F. 2d 934, 936 (5th Cir. 1970).

The Court of Appeals adopted the findings of the District Court.

Finally, the Company urges before this Court a full scale review of the Courts' role in the enforcement of arbitration awards (Petition of Company at 11). The Company, however, cites no authority or commentary urging the need for revision of the Courts' current deference to arbitration in enforcing arbitrators' awards. Early in the development of precedent under this Court's ruling in *Enterprise Wheel & Car Corp.*, practitioners in the labor relations field recognized the value of the succinct rules established by this Court as workable and appropriate. Report of Special *Warrior & Gulf* Comm., PROCEEDINGS OF ABA SECTION OF LABOR RELATIONS LAW 197, 206 (1963). Since then, the Union urges, the policies and results fostered by the decisions have worked as in this case.

In summary, these proceedings present a simple issue regarding the manner in which a reviewing Court should deal with an ambiguity in an arbitrator's award. This Court gave the answer to the problem in *Enterprise Wheel & Car Corp.* The lower Courts found no difficulty in applying the doctrine in this case. Other lower Courts have confronted and consistently handled the same problem. And, the Company points to no urgent need to launch a re-examination of the current law.

Since these proceedings present a routine issue, since this Court resolved the precise issue in *Enterprise Wheel & Car Corp.*, since the lower Courts have handled the same issue under the doctrines established by this Court and since the Company demonstrates no other need to review existing law, the Union urges no reason exists for this Court to grant the Company's Petition. *See* U. S. SUP. CT. RULE 17.1.

CONCLUSION

For the foregoing reasons, the Union urges this Court to deny the Company's Petition for a Writ of Certiorari to the United States Court of Appeals for the Eighth Circuit.

Respectfully submitted,

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